

## SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

**SUBJECT:** Authorization to Advertise and Schedule a Public Hearing for Amendments to the Seminole County Code Creating Part 5 Establishing the Legal Basis to Exercise Authority and Legal Responsibility to Remove Event Generated Debris from Private Property

**DEPARTMENT:** Environmental Services

**DIVISION:** Solid Waste Management

**AUTHORIZED BY:** John Cirello

**CONTACT:** Richard Meinert

**EXT:** 2251

**MOTION/RECOMMENDATION:**

Authorize scheduling and advertising a Public Hearing for the proposed Ordinance amending Chapter 235 Seminole County Code authorizing the removal of private property debris during post-disaster environments for eligibility of FEMA assistance.

County-wide

Richard Meinert

**BACKGROUND:**

The removal of debris from private property may be in the public interest when it is required to eliminate or lessen an immediate threat to life, health and safety, to reduce a threat of additional damage to improved property, or to promote economic recovery of the community at large. A public hearing is requested for the Board to consider changes to Seminole County Code, Chapter 235. The proposed changes to the County Code establishes the legal basis to exercise authority and legal responsibility to remove event-generated debris from private property.

The proposed Ordinance is consistent with the FEMA Disaster Specific Guidance #05, Public Assistance Program.

Environmental Services Staff is requesting authorization to advertise for a Public Hearing on the above amendments to the Seminole County Code.

**STAFF RECOMMENDATION:**

Staff recommends authorization to advertise and schedule a Public Hearing for Amendments to the Seminole County Code Creating Part 5 Establishing the Legal Basis to Exercise Authority and Legal Responsibility to Remove Event Generated Debris from Private Property.

**ATTACHMENTS:**

1. Ordinance

**Additionally Reviewed By:**

☒ County Attorney Review ( Ann Colby )

AN ORDINANCE AMENDING CHAPTER 235, SEMINOLE COUNTY CODE, BY CREATING PART 5 "REGULATIONS OF WASTE GENERALLY"; PROVIDING A TITLE; PROVIDING THE INTENT AND PURPOSE; PROVIDING AUTHORITY; PROVIDING DEFINITIONS; PROVIDING FOR PRIVATE ROADWAYS; PROVIDING FOR WAIVERS; PROVIDING FOR INDEMNIFICATION AND HOLD HARMLESS; PROVIDING FOR EMERGENCY ROADWAY CLEARANCE; PROVIDING FOR PRIVATE PROPERTY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the County of Seminole is a political subdivision located within the State of Florida and often subject to major or catastrophic storm events and natural disasters potentially including those of human origin; and

**WHEREAS**, such events and disasters may on occasion cause the County or specific geographical areas within the County to experience widespread damage and destruction; and

**WHEREAS**, if the damage is significant and widespread, there will be a substantial benefit to the County's recovery plan to remove debris in order to restore emergency services, utilities and protect life and property; and

**WHEREAS**, it may be difficult if not impossible for private property owners of the County to clear property quickly and effectively; and

**WHEREAS**, it is the County's duty, under certain terms and conditions, to clear and remove debris which will cause significant and immediate harm to the health, safety and welfare of the inhabitants of the County; and

**WHEREAS**, the provisions of this Ordinance are consistent with the provisions of the Seminole County Comprehensive Plan; and

**WHEREAS**, the Seminole County Home Rule Charter requires that an Economic Impact Statement be prepared to address the potential impacts and economic costs of this Ordinance upon the public and taxpayers of Seminole County and such Economic Impact Statement has been prepared and made available for such public review and copying prior to the enactment of this Ordinance in accordance with provisions of the Seminole County Home Rule Charter,

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:**

**SECTION 1.** Part 5, Chapter 235 of the Seminole County Code is hereby created to read as follows:

**PART 5. DEBRIS REMOVAL FROM PRIVATE STREETS, ROADS, ROADWAYS AND PRIVATE PROPERTY.**

**Sec. 235.91. Intent and Purpose.**

After declaration of a disaster in accordance with Code Sec. 72.5, the primary mission of the County will be to protect lives and property, restore governmental services and clear public streets. Depending on the magnitude of the disaster and after accomplishment of the primary mission, resources may be available to the County that may not be available to a private property owner. The intent and purpose of this Part is to establish a process by which the County may evaluate and, if necessary, remove debris from along privately owned streets, roads, roadways, and other private property in the event of an immediate threat to life, public health and safety after a significant disaster. While the County recognizes that, as a general proposition, the removal of debris from private property is the responsibility of the property owner, there are occasions when,

because of the magnitude of the disaster and the threat posed to life, health, and safety, there may be a compelling need to remove debris from private streets, roads, and roadways and other private property as described in this Part.

**Sec. 235.92. Definitions.** As used in this Part, the following terms shall have the following meanings, unless the context clearly otherwise requires:

(a) "Access Properties" means access to the properties depicted on the map entitled "Maintained Roads Map", as it may be amended from time to time, maintained by and in the custody of the County Public Works Department, and incorporated herein as if fully set forth verbatim. Access shall be provided if: (1) the County is undertaking to clear and push debris in accordance with Sec. 235.965 and (2) it is reasonably possible with respect to the equipment used to provide access under the circumstances. The Maintained Roads Map represents the best efforts of the County to set forth a complete listing; however, due to the nature of the roadway system and the historical problems relating to documentation and memorialization of roadways and rights-of-way, the listing may not be all inclusive.

(b) "Debris" shall include, but is not limited to, displaced, broken, or discarded building and construction materials, garbage, vegetative matter and spoiled or ruined household goods or materials.

(c) "Private Property" means all property that is not owned or controlled by a governmental entity.

(d) "Private Streets, Roads and Roadway" shall include the rights-of-way as well as the improved surface that provides access to

residential and commercial areas as identified as "Private Roadways" in the Maintained Roads Map.

**Sec. 235.93. Private Roadways.**

The County shall remove Debris from Private Roadways when such Debris is determined to pose an immediate threat to the health, safety and welfare of the community. Pursuant to Code Sec. 72.7(a), the County Manager shall determine whether there is an immediate threat to the public health, safety, and welfare sufficient to warrant removal of said Debris in accordance with any one of the following standards:

(a) There is a significant likelihood that rescue vehicles will be significantly hindered from rendering emergency services to residential and commercial property should the Debris be allowed to remain in place absent County removal.

(b) The type of Debris is such that it may reasonably cause disease, illness, or sickness which could injure or adversely affect the health, safety, or general welfare of those residing and working in the area if it is allowed to remain.

(c) The clearing is necessary to effectuate orderly and expeditious restoration of County-wide utility services including, but not limited to, power, water, sewer, and telephone.

(d) The Debris is determined by the County Building Official to be dangerous or hazardous.

(e) The Debris prevents garbage collection thereby creating a public health hazard.

(f) The Debris contains contaminants which have a reasonable likelihood of leeching into the soil and/or aquifer of the County.

(g) The Debris has a substantial negative impact in preventing or adversely affecting emergency repairs to buildings and/or property.

(h) The Debris presents a reasonable danger of being transported by wind and/or water into the surrounding areas of the County and thereby increasing the cost of recovery and removal.

(i) The Debris poses a significant likelihood of, if left over time, producing mold which would be injurious to public health.

(j) The presence of the Debris significantly adversely impacts the County's recovery efforts.

(k) The Debris significantly interferes with drainage or water runoff, so as to be a significant hazard in the event of significant rainfall.

(l) The sheer volume of the Debris is such that it is impractical and unreasonable to remove in an orderly and efficient manner absent action by the County.

(m) The type, extent and nature of the Debris is such that it would cause much greater damage if the Debris was not removed immediately.

(n) Commercial or other specific areas will be cleared if, in the opinion of the County Manager, the clearance will aid the County's recovery operations or aid the health, safety, or welfare of the residents of the County.

**Sec. 235.94. Waiver.**

With regard to eligibility for Federal funding, the Federal Emergency Management Agency (FEMA) may waive the requirement for the County to establish the criteria listed in Code Sec. 235.93 as a

condition precedent to County action depending on the severity of the situation.

**Sec. 235.95. Indemnification and Hold Harmless.**

Prior to removal of Debris by the County as contemplated herein on Private Roadways and Private Property, or clearance by the County of Private Property as provided herein, the private property owner shall indemnify and hold harmless, to the maximum extent permitted by law, the Federal, State, and local government and all employees, officers and agents of the Federal, State, and local government connected with the rendering of such service.

**Sec. 235.96. Emergency Roadway Clearance.**

Nothing herein shall preclude a first response by the County to clear and push Debris from all roadways (both public and private) including Access Properties necessary for the movement of emergency vehicles including police, fire and ambulance within the first seventy (70) hours after a disaster declaration.

**Sec. 235.97. Private Property.**

Nothing herein shall require the County to remove Debris from Private Property other than the Private Roadways identified above except where the severity of the situation is of such magnitude or the Debris is so widespread that it is determined by the County Manager to be a significant immediate threat to the health, safety and welfare of the County and in the overriding public interest of the County to remove Debris from such areas.

**Secs. 235.98 - 235.99. Reserved.**

**SECTION 2. CODIFICATION.** It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of the Seminole County Code, and that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 2, 3, and 4 shall not be codified.

**SECTION 3. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision of application, and to this end the provisions of this Ordinance are declared severable.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida

\_\_\_\_\_  
BRENDA CAREY, Chairman

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